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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91246659
Party	Defendant Goode Enterprise Solutions, Inc.
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Attachments	APPLICANT RESPONSE RETURN OF THE GUARDIANS opposition ttabvue-91245558-OPP-1.pdf(145715 bytes)

**IN THE UNITED STATES PATENT AND
TRADEMARK OFFICE BEFORE THE TRADEMARK
TRIAL AND APPEAL BOARD**

<p>MARVEL CHARACTERS, INC.,</p> <p style="text-align: center;">Opposer,</p> <p style="text-align: center;">v.</p> <p>GOODE ENTERPRISE SOLUTIONS, INC.,</p> <p style="text-align: center;">Applicant.</p>	<p>Opposition No.</p> <p>Serial No. 87821460 Filed: March 6, 2018 Mark: RETURN OF THE GUARDIANS</p>
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ANSWER TO NOTICE OF OPPOSITION

Applicant for Serial No. 87821460 (the “Application”) Goode Enterprise Solutions, Inc. ("Applicant" or “GES”) for the claimed word mark RETURN OF THE GUARDIANS (the "Mark"), and hereby responds as follows:

NOTICE OF OPPOSITION

GES DENIES Marvel Characters, Inc.'s ("Opposer") allegations that it will be damaged by GES's application. On information and belief, GES believes that Opposer has ties to another entity that has filed oppositions to other pending trademarks belonging to GES. Upon information and belief, this entity, Gaia, Inc., has unduly influenced Opposer to do the same, thus prompting the immediate Opposition. GES has insufficient facts to either admit or deny the remainder of the statements in Opposer's opening paragraph of the Opposer's Notice of Opposition (the "Opposition"), and as so states these statements are DENIED. To the extent not explicitly admitted, all allegations in the opposition are denied.

OPPOSER AND ITS BUSINESS

1. GES lacks knowledge or information sufficient to form a belief as to the truth of the matters alleged in Paragraph 1 and, on that basis, denies them.
2. GES denies the allegations in paragraph 2.
3. GES lacks knowledge or information sufficient to form a belief as to the truth of the matters alleged in Paragraph 3 and, on that basis, denies them.

OPPOSER AND ITS BUSINESS

4. GES lacks knowledge or information sufficient to form a belief as to the truth of the matters alleged in Paragraph 4 and, on that basis, denies them.

5. The materials referenced in Paragraph 5 speak for themselves, and to the extent that the allegations in Paragraph 5 vary therewith, GES denies them. GES denies any and all remaining allegations and/or legal conclusions contained in Paragraph 5.
6. The materials referenced in Paragraph 6 speak for themselves, and to the extent that the allegations in Paragraph 6 vary therewith, GES denies them. GES denies any and all remaining allegations and/or legal conclusions contained in Paragraph 6.
7. GES lacks knowledge or information sufficient to form a belief as to the truth of the matters alleged in Paragraph 7 and, on that basis, denies them.
8. GES lacks knowledge or information sufficient to form a belief as to the truth of the matters alleged in Paragraph 8 and, on that basis, denies them.
9. GES lacks knowledge or information sufficient to form a belief as to the truth of the matters alleged in Paragraph 9 and, on that basis, denies them.
10. GES lacks knowledge or information sufficient to form a belief as to the truth of the matters alleged in Paragraph 10 and, on that basis, denies them.
11. GES lacks knowledge or information sufficient to form a belief as to the truth of the matters alleged in Paragraph 11 and, on that basis, denies them.
12. The materials referenced in Paragraph 12 speak for themselves, and to the extent that the allegations in Paragraph 12 vary therewith, GES denies them. GES denies any and all remaining allegations and/or legal conclusions contained in Paragraph 12.
13. The materials referenced in Paragraph 13 speak for themselves, and to the extent that the allegations in Paragraph 13 vary therewith, GES denies them. GES denies

- any and all remaining allegations and/or legal conclusions contained in Paragraph 13.
14. GES lacks knowledge or information sufficient to form a belief as to the truth of the matters alleged in Paragraph 14 and, on that basis, denies them.
 15. GES denies the allegations in Paragraph 15.
 16. The materials referenced in Paragraph 16 speak for themselves, and to the extent that the allegations in Paragraph 16 vary therewith, GES denies them. GES denies any and all remaining allegations and/or legal conclusions contained in Paragraph 16.
 17. The materials referenced in Paragraph 17 speak for themselves, and to the extent that the allegations in Paragraph 17 vary therewith, GES denies them. GES lacks knowledge or information sufficient to form a belief as to the truth of the matters alleged in Paragraph 17 and therefore denies any and all remaining allegations and/or legal conclusions contained in Paragraph 17.
 18. The materials referenced in Paragraph 18 speak for themselves, and to the extent that the allegations in Paragraph 18 vary therewith, GES denies them. GES lacks knowledge or information sufficient to form a belief as to the truth of the matters alleged in Paragraph 18 and therefore denies any and all remaining allegations and/or legal conclusions contained in Paragraph 18.

OPPOSER'S ALLEGED RIGHTS IN THE GUARDIANS-Formative MARKS

19. GES lacks knowledge or information sufficient to form a belief as to the truth of the matters alleged in Paragraph 19 and, on that basis, denies them

GES's "RETURN OF THE GUARDIANS" MARK

- 20. Applicant admits the allegations in Paragraph 20.
- 21. Applicant admits the allegations in Paragraph 21.
- 22. Applicant admits the allegations in Paragraph 22.
- 23. Applicant denies the allegations in Paragraph 23.

COUNT 1: LIKELIHOOD OF CONFUSION

- 24. Applicant asserts that no response is necessary to Paragraph 27, but to the extent a response is necessary, BGK denies the allegations and/or legal conclusion contained in Paragraph 24.
- 25. Applicant denies the allegations in Paragraph 25.
- 26. Applicant denies the allegations in Paragraph 26.
- 27. Applicant denies the allegations in Paragraph 27.
- 28. Applicant denies the allegations in Paragraph 28.

COUNT 2: DILUTION BY BLURRING

- 29. Applicant asserts that no response is necessary to Paragraph 27, but to the extent a response is necessary, BGK denies the allegations and/or legal conclusion contained in Paragraph 29.
- 30. Applicant denies the allegations in Paragraph 30.
- 31. Applicant denies the allegations in Paragraph 31.
- 32. Applicant denies the allegations in Paragraph 32.
- 33. Applicant denies the allegations in Paragraph 33.
- 34. Applicant denies the allegations in Paragraph 34.

AFFIRMATIVE DEFENSES

Applicant expressly reserves the right to plead additional affirmative and other defenses should any such defenses be revealed by discovery in this case. As and for its affirmative and other defenses, Applicant states as follows:

First Affirmative Defense

The notice of opposition fails to state a claim upon which relief can be granted.

Second Affirmative Defense

Opposer does not have standing to oppose the Mark.

Third Affirmative Defense

Applicant alleges on information and belief that as a result of opposer's own acts and/or omissions, the opposition is barred by the doctrine of laches.

Fourth Affirmative Defense

Applicant alleges on information and belief that the opposition is barred by the doctrine of estoppel.

Fifth Affirmative Defense

Applicant alleges on information and belief that as a result of its own acts and omissions, opposer has waived any right to pursue its opposition.

Sixth Affirmative Defense

Applicant alleges on information and belief that the opposition is barred by the doctrine of acquiescence.

Seventh Affirmative Defense

Applicant alleges on information and belief that the opposition is barred by the doctrine of unclean hands.

Eighth Affirmative Defense

Any and all acts alleged to have been committed by Applicant were performed with lack of knowledge and lack of willful intent.

Ninth Affirmative Defense

As a result of Applicant's continuous use of the Mark since the time of Applicant's adoption thereof, the Mark has developed significant goodwill among the consuming public and consumer acceptance of the services offered by Applicant in conjunction with the Mark. Such goodwill and widespread usage has caused the Mark to acquire distinctiveness with respect to Applicant and caused the Mark to become a valuable asset of Applicant.

COUNTERCLAIMS

Applicant is still investigating the substance of the claims asserted against in the Opposition by Opposer. To date Applicant is not aware of any possible counterclaims it may have against Opposer but reserves the right to assert any that develop as the case progresses per *Jive Software, Inc. v. Jive Communications, Inc.*, Opposition No. 91218826 (parent) (December 20, 2017) [precedential].

CONCLUSION

TO THE EXTENT that any allegation is not expressly ADMITTED or DENIED, it is DENIED. Applicant reserves the right to amend any of the foregoing as information becomes available to Applicant.

WHEREFORE, Applicant requests that the notice of opposition be dismissed with prejudice, together with whatever other relief the Board may deem appropriate.

Dated: April 8, 2019

Respectfully Submitted,

S/ VALERIE YANAROS WILDE
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